

AMENDED IN ASSEMBLY APRIL 20, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1925**

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**Introduced by Assembly Member Salas**

February 16, 2010

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An act to add Chapter 2.97 (commencing with Section 1001.95) to Title 6 of Part 2 of the Penal Code, relating to ~~diversion~~ *veterans courts*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1925, as amended, Salas. ~~Diversion: veterans.~~ *Veterans courts.*

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs.

This bill would authorize superior courts to develop and implement veterans courts for eligible veterans of the United States military with the objective of, among other things, creation of a dedicated calendar or a locally developed collaborative court-supervised veterans mental health program or system that leads to the placement of as many mentally ill offenders who are veterans of the United States military, including those with post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or any mental health problem stemming from military service, in community treatment as is feasible and consistent with public safety. ~~The bill would authorize the veterans courts to operate as a preguilty plea program, deferred entry of judgment program, or a postguilty plea program where the defendant has entered a guilty plea or has been sentenced and is on probation.~~

~~Because this bill would change the punishment for commission of various crimes and would require local officials to provide a higher level of service, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 2.97 (commencing with Section 1001.95)  
2 is added to Title 6 of Part 2 of the Penal Code, to read:

3  
4 CHAPTER 2.97. DIVERSION OF VETERANS

5  
6 1001.95. (a) Superior courts are hereby authorized to develop  
7 and implement veterans courts.

8 (b) For purposes of this section, a veterans court shall have the  
9 following objectives:

10 (1) Increase cooperation between the courts, criminal justice,  
11 veterans, and substance abuse systems.

12 (2) Creation of a dedicated calendar or a locally developed  
13 collaborative court-supervised veterans mental health program or  
14 system that contains the characteristics set out in subdivision (c)  
15 that will lead to placement of as many mentally ill offenders who  
16 are veterans of the United States military, including those with  
17 post-traumatic stress disorder, traumatic brain injury, military  
18 sexual trauma, substance abuse, or any mental health problem

1 stemming from United States military service, in community  
2 treatment, as is feasible and consistent with public safety.

3 (3) Improve access to necessary services and support.

4 (4) Reduce recidivism.

5 (5) Reduce the involvement of veterans in the criminal justice  
6 system and time in jail by making mental health service for  
7 veterans available in the least restrictive environment possible  
8 while promoting public safety.

9 (c) For purposes of this section, a veterans court shall have all  
10 of the following characteristics:

11 (1) Leadership by a superior court judicial officer assigned by  
12 the presiding judge.

13 (2) Enhanced accountability by combining judicial supervision  
14 with rehabilitation services that are rigorously monitored and  
15 focused on recovery.

16 (3) A problem solving focus.

17 (4) A team approach to decisionmaking.

18 (5) Integration of social and treatment services.

19 (6) Judicial supervision of the treatment process, as appropriate.

20 (7) Community outreach efforts.

21 (8) Direct interaction between defendant and judicial officer.

22 (d) In developing a veterans court, the presiding judge or his or  
23 her designee shall contact the county board of supervisors, the  
24 county administrative officer, or their designee to convene the  
25 county and court stakeholders and, through a collaborative process  
26 with these stakeholders, develop a plan that is consistent with this  
27 section. At least one stakeholder should be a criminal justice client  
28 who is a veteran who has lived with the experience of mental illness  
29 as described in paragraph (2) of subdivision (b) of this section.  
30 The plan shall address at a minimum all of the following  
31 components:

32 (1) The method by which the veterans court ensures that the  
33 target population of defendants are identified and referred to the  
34 veterans court.

35 (2) The method for assessing defendants who are veterans for  
36 serious mental illness and co-occurring disorders.

37 (3) Eligibility criteria specifying what factors make the  
38 defendant eligible to participate in the veterans court, including  
39 service in the United States military, the amenability of the  
40 defendant to treatment and the facts of the case, as well as prior

1 criminal history, United States military service history, and mental  
2 health and substance abuse treatment history.

3 (4) The elements of the treatment and supervision programs.

4 (5) Standards for continuing participation in, and successful  
5 completion of, the veterans court program.

6 (6) The need for the county mental health department and the  
7 drug and alcohol department to provide initial and ongoing training  
8 for designated staff on the nature of serious mental illness and on  
9 the treatment and supportive services available in the community.

10 (7) The process to ensure defendants will receive the appropriate  
11 level of treatment services, *provided that* the county and other  
12 local agencies shall be obligated to provide mental health treatment  
13 services only to the extent that resources are available for that  
14 purpose, as described in paragraph (5) of subdivision (b) of Section  
15 5600.3 of the Welfare and Institutions Code.

16 (8) The process for developing or modifying a treatment plan  
17 for each defendant, based on a formal assessment of the defendant's  
18 mental health, United States military service history, and substance  
19 abuse treatment needs. Participation in the veterans court shall  
20 require defendants to complete the recommended treatment plan,  
21 and comply with any other terms and conditions that optimizes  
22 the likelihood that the defendant completes the program.

23 (9) The process for referring cases to the veterans court.

24 (10) A defendant's voluntary entry into the veterans court, the  
25 right of a defendant to withdraw from the veterans court, and the  
26 process for explaining these rights to the defendant.

27 (e) In developing a veterans program, each veterans court team,  
28 ~~lead~~ *led* by a judicial officer, shall include, but not be limited to,  
29 a judicial officer to preside over the court, prosecutor, public  
30 defender, county mental health liaison, substance abuse liaison,  
31 county veterans' service officer, and probation officer. The veterans  
32 court team will determine the frequency of ongoing reviews of the  
33 progress of the offender in community treatment in order to ensure  
34 the offender adheres to the treatment plan as recommended,  
35 remains in treatment, and completes treatment.

36 ~~(f) For purposes of this section, a veterans court may operate~~  
37 ~~as a preguilty plea program, wherein criminal proceedings are~~  
38 ~~suspended without a plea of guilty for designated defendants. If~~  
39 ~~the court finds that the defendant is not performing satisfactorily~~  
40 ~~in the assigned program, or that the defendant is not benefiting~~

1 from education, treatment, or rehabilitation, the court shall consider  
2 modification of the treatment plan or reinstate the criminal charge  
3 or charges. If the court finds that the defendant has engaged in  
4 criminal conduct rendering him or her unsuitable for the preguilty  
5 plea program, the court shall reinstate the criminal charge or  
6 charges. If the defendant has performed satisfactorily during the  
7 period of the preguilty plea program, at the end of that period, the  
8 criminal charge or charges shall be dismissed and the provisions  
9 of Section 1000.4 shall apply.

10 (g) For purposes of this section, a veterans court may operate  
11 as a deferred entry of judgment program. If the defendant is found  
12 eligible, the prosecuting attorney shall file with the court a  
13 declaration in writing or state for the record the grounds upon  
14 which the determination is based, and shall make this information  
15 available to the defendant and his or her attorney. This procedure  
16 is intended to allow the court to set the hearing for deferred entry  
17 of judgment at the arraignment. If the defendant is found ineligible  
18 for deferred entry of judgment, the prosecuting attorney shall file  
19 with the court a declaration in writing or state for the record the  
20 grounds upon which the determination is based, and shall make  
21 this information available to the defendant and his or her attorney.  
22 The sole remedy of a defendant who is found ineligible for deferred  
23 entry of judgment is a postconviction appeal. If the prosecuting  
24 attorney determines that this section may be applicable to the  
25 defendant, he or she shall advise the defendant and his or her  
26 attorney in writing of that determination. This notification shall  
27 include all of the following:

28 (1) A full description of the procedures for deferred entry of  
29 judgment.

30 (2) A general explanation of the roles and authorities of the  
31 probation department, the prosecuting attorney, the program, and  
32 the court in the process.

33 (3) A clear statement that, in lieu of trial, the court may grant  
34 deferred entry of judgment provided that the defendant pleads  
35 guilty to each charge and waives time for the pronouncement of  
36 judgment, and that upon the defendant's successful completion of  
37 a program the positive recommendation of the program authority  
38 and the motion of the prosecuting attorney, the court, or the  
39 probation department, the court shall dismiss the charge or charges

1 against the defendant and the provisions of Sections 1000.3 and  
2 1000.4 shall apply.

3 (4) ~~A clear statement that upon failure of treatment or condition~~  
4 ~~under the program the prosecuting attorney or the probation~~  
5 ~~department or the court on its own may make a motion to the court~~  
6 ~~for entry of judgment, and the court shall render a finding of guilty~~  
7 ~~to the charge or charges pled, enter judgment, and schedule a~~  
8 ~~sentencing hearing.~~

9 (5) ~~An explanation of criminal record retention and disposition~~  
10 ~~resulting from participation in the deferred entry of judgment~~  
11 ~~program and the defendant's rights relative to answering questions~~  
12 ~~about his or her arrest and deferred entry of judgment following~~  
13 ~~successful completion of the program.~~

14 (h) ~~For purposes of this section a veterans court may operate as~~  
15 ~~a postguilty plea program wherein the defendant has entered a~~  
16 ~~guilty plea or has been sentenced and is on probation. If the~~  
17 ~~defendant has performed satisfactorily during the period of the~~  
18 ~~postguilty plea program, at the end of that period, the criminal~~  
19 ~~charge or charges may be dismissed.~~

20 (i) ~~Entry into the veterans court program is voluntary. Once an~~  
21 ~~individual chooses to enter, the defendant shall comply with the~~  
22 ~~conditions of participation specified by the court.~~

23 (j) ~~An individual's duration in the veterans court program shall~~  
24 ~~not exceed his or her maximum sentence plus probation or parole.~~

25 SEC. 2. ~~No reimbursement is required by this act pursuant to~~  
26 ~~Section 6 of Article XIII B of the California Constitution for certain~~  
27 ~~costs that may be incurred by a local agency or school district~~  
28 ~~because, in that regard, this act creates a new crime or infraction,~~  
29 ~~eliminates a crime or infraction, or changes the penalty for a crime~~  
30 ~~or infraction, within the meaning of Section 17556 of the~~  
31 ~~Government Code, or changes the definition of a crime within the~~  
32 ~~meaning of Section 6 of Article XIII B of the California~~  
33 ~~Constitution.~~

34 However, if the Commission on State Mandates determines that  
35 this act contains other costs mandated by the state, reimbursement  
36 to local agencies and school districts for those costs shall be made  
37 pursuant to Part 7 (commencing with Section 17500) of Division  
38 4 of Title 2 of the Government Code.

39 SEC. 2. *If the Commission on State Mandates determines that*  
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*  
2 *pursuant to Part 7 (commencing with Section 17500) of Division*  
3 *4 of Title 2 of the Government Code.*

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